

Application No. 10/795,837
Amendment dated October 30, 2007
Reply to Office Action of July 30, 2007

REMARKS

Claims 1-21 are pending in the application. Claims 19-21 have been withdrawn.

Claim Rejections – 35 U.S.C. § 102

The Examiner rejected Claims 1-5 under 35 U.S.C. §§ 102(a) and 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0220689 to Ritland et al. (hereinafter "Ritland et al. '689").

Ritland et al. '689 discloses a device for positioning an implant. The device includes reference means 30 for detection by a navigation system.

Nowhere does Ritland et al. '689 disclose or suggest a navigated stemmed implant inserter for use with a stemmed orthopaedic implant defining a longitudinal stem axis and a surgical navigation system during joint replacement surgery on a bone, the inserter including a stem engaging member engageable with the stemmed orthopaedic implant in rigid relative arrangement and an elongated rod translatable along a body of the navigated stemmed implant inserter, wherein the elongated rod is translated along a longitudinal axis substantially parallel with the longitudinal stem axis to lockingly engage the stem engaging member with the stemmed orthopaedic implant, as called for in amended independent Claim 1.

Because Ritland et al. '689 fails to disclose or suggest all of the limitations of Claim 1, Applicants respectfully submit that Claim 1 and Claims 2-5 dependent thereon are patentable over Ritland et al. '689.

Claim Rejections – 35 U.S.C. § 103

The Examiner rejected Claim 17 under 35 U.S.C. § 103(a) as being unpatentable over Ritland et al. '689. Applicants respectfully submit that Claim 17 is patentable for at least the reasons advanced above with respect to Claim 1 from which Claim 17 depends.

Allowable Subject Matter

Applicants appreciate the Examiner's allowance of Claim 18 and the indication of allowable subject matter in Claims 6-16.

Applicants have amended Claim 18 in view of newly cited U.S. Patent No. 5,064,427 to Burkinshaw (hereinafter "Burkinshaw '427"). Applicants respectfully submit that Claim 18 is patentable over Burkinshaw '427 because Burkinshaw '427 fails to disclose or suggest a navigated femoral stem inserter for use with a surgical navigation system during hip replacement surgery on a femur to insert a hip stem implant, the hip stem implant including a projecting neck and defining a longitudinal stem axis, the inserter including a stem engaging member including a ring shaped head having a bore with a bore axis, the bore being engageable with the neck of the hip stem implant; a stem locking member mounted for translation along an axis transverse to the bore axis, the stem locking member being movable between a first position in which the neck may be disengaged from the bore and a second position in which the neck is prevented from being disengaged from the bore, wherein the axis of translation of the stem locking member is substantially parallel to the longitudinal stem axis of the hip stem implant; and a reference member trackable by the surgical navigation system, the reference member being supported in a known rigid relationship to the hip stem implant when the stem locking member is in the second position such that the surgical navigation system may determine the position and orientation of the hip stem implant relative to the femur by detecting the position and orientation of the reference member and resolving the position and orientation of the hip stem implant from

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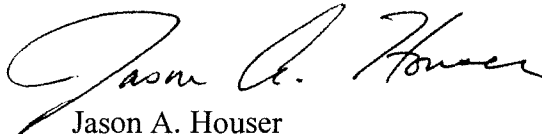
a known relationship between the reference member and the hip stem implant, as called for in Claim 18.

Applicants respectfully submit that Claims 6-16 are patentable with Claim 1 from which they depend.

In the event Applicants have overlooked the need for an extension of time or payment of fee, Applicants hereby petition therefor and authorize that any charges be made to Deposit Account No. 02-0385, BAKER & DANIELS.

If any questions concerning this application should arise, the Examiner is encouraged to telephone the undersigned at 260/424-8000.

Respectfully submitted,



Jason A. Houser
Registration No. 53,038
Attorney for Applicants

JAH/pas

BAKER & DANIELS LLP
111 East Wayne Street
Suite 800
Fort Wayne, IN 46802

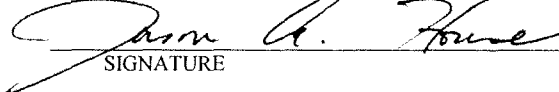
TX: (260) 424-8000
FAX: (260) 460-1700

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I HEREBY CERTIFY THAT THIS correspondence is being electronically filed with: Commissioner for Patents, on: October 30, 2007.

Jason A. Houser, Reg. No. 53,038

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